

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

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JOSEPH STEVENS & COMPANY, INC.,

Petitioner/Cross-Respondent,

vs.

Case No. 08 C 706

DAVID CIKANEK,

Hon. Amy St. Eve

Respondent/Cross-Petitioner.

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**RESPONDENT/CROSS-PETITIONER DAVID CIKANEK'S
CROSS-APPLICATION TO CONFIRM ARBITRATION AWARD**

Now comes Respondent/Cross-Petitioner David Cikanek ("Mr. Cikanek"), by and through his attorneys, pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 et seq., (the "FAA") and respectfully files his Cross-Application to this Honorable Court for an order confirming the arbitration award (the "Award") of the National Association of Securities Dealers Regulation, Inc. ("NASD") in the matter of David Cikanek v. Joseph Stevens & Co., Inc., Kevin Brody, Leonard Inserra and Ross Inserra, and entering a final judgment thereon. In support of his Cross-Application, Mr. Cikanek states as follows:

THE PARTIES

1. Mr. Cikanek is an individual residing in the City of Chicago, State of Illinois.
2. Joseph Stevens & Company, Inc. ("Stevens") is a New York corporation duly organized and existing under the laws of the State of New York, with its principal place of business in the City of New York, State of New York.

JURISDICTION AND VENUE

3. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §1332(a) and pursuant to the FAA, and particularly Section 9 thereof, because there is diversity of citizenship between the parties, and the arbitration hearing, which resulted in the arbitration award that is the subject of this Cross-Application, was conducted in Chicago, Illinois. The amount in controversy exceeds \$75,000.

4. Venue is proper in this District pursuant to 28 U.S.C. §1391(a)(2), the FAA and the Order to Transfer Venue issued on January 24, 2008 by Judge Barbara S. Jones of the United States District Court for the Southern District of New York (attached as Exhibit A).

FACTS WARRANTING CONFIRMATION

5. On or about April 6, 2006, Mr. Cikanek filed a Statement of Claim in Arbitration with the NASD captioned: David Cikanek v. Joseph Stevens & Co., Inc., Kevin Brody, Leonard Inserra and Ross Inserra, NASD Arbitration Case No. 06-1868 (the “Arbitration”).

6. In his Statement of Claim (attached as Exhibit B), Mr. Cikanek alleged numerous claims against Stevens including unauthorized trading; churning and excessive trading; negligent account management; breach of contract; numerous violations of NASD Rules and numerous additional state and common law claims. Mr. Cikanek further requested that the arbitration panel award him actual damages in the amount of \$800,000, punitive damages, attorney’s fees, costs and interest.

7. As required by the NASD, Stevens executed and submitted a Uniform Submission Agreement in which, among other things, it agreed to submit the dispute to NASD arbitration and be bound by any award rendered therein. (A copy is attached as Exhibit C).

8. On March 19 through March 23, 2007, the Arbitration took place in Chicago, Illinois.

9. On March 30, 2007, the arbitration panel, having considered the pleadings, testimony and evidence presented at the Arbitration, entered an award in favor of Mr. Cikanek and against Stevens in the amount of \$213,750, comprised of \$47,500 in compensatory damages and \$166,250 in punitive damages. (A copy is attached hereto as Exhibit D).

10. On April 27, 2007, pursuant to Section 10 of the FAA, Stevens filed its Application to Vacate Arbitration Award (the "Application to Vacate") in the United States District Court for the Southern District of New York, Case No. 07 CV 3385.

11. On or about June 14, 2007, Mr. Cikanek moved to dismiss the Application to Vacate for lack of jurisdiction or alternatively to transfer venue pursuant to 28 U.S.C. 1404(a) (the "Motion").

12. By order dated January 24, 2008, Judge Barbara Jones of the United States District Court for the Southern District of New York granted the Motion and transferred this matter to the United States District Court for the Northern District of Illinois, where it was assigned to this Court.

13. Pursuant to Section 9 of the FAA, Mr. Cikanek respectfully requests that this Court deny the Application to Vacate, grant his Cross-Application to Confirm and specifically order the following relief:

- a. Confirmation of the Award; and
- b. Entry of a final judgment in favor of Mr. Cikanek and against Stevens for:
 - (i) the amount of \$213,750.00 plus all fees assessed in the Award;
 - (ii) pre-and post-judgment interest at the applicable statutory rate; and

(iii) such other and further relief as this Court deems just and proper.

Respectfully Submitted,

DAVID CIKANEK

By:

/s/ Leslie A. Blau

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Dated: March 28, 2008